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Via ECF

Hon. George B. Daniels, USDJ
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

**Re: Athena Art Finance Corp. v. Certain Artwork by
 Jean-Michel Basquiat entitled *Humidity*, 1982, *in Rem*,
 Case No. 20-cv-4669 (GBD)**

Joint Status Letter in Advance of October 15, 2020 Conference

Dear Judge Daniels:

We represent plaintiff Athena Art Finance Corp. in this *in rem* action against that Certain Artwork by Jean-Michel Basquiat entitled *Humidity*, 1982, and submit this letter in advance of the Rule 26 Conference scheduled for October 15th. Given the parties' current positions, we respectfully request that this Court proceed with the conference that is now scheduled for October 15th.

On October 5th, the parties conducted a meet-and-confer teleconference to discuss a proposed Rule 26 schedule. Counsel for Satfinance stated its position that this matter should not proceed while (1) Satfinance's October 5, 2020 request to the English appeals court for an injunction, and (2) Satfinance's appeal from the English court's judgment dismissing the action brought by Satfinance against Athena for lack of jurisdiction, are pending in that court. Delahunty, which has joined in the appeal in England, also believes that the Rule 26 schedule should not be entered while the appeal in England is proceeding.

In England, Satfinance has appealed from the order dismissing its claims against Athena. It is Athena's position that if Satfinance and Delahunty wish to stay the proceedings in the Southern District of New York, they should make a motion in this Court to stay the proceedings. It is Athena's position that until this Court issues a stay, the parties are obligated to proceed in the ordinary manner.

In the event this Court does not agree with Satfinance's and Delahunty's position, Athena and Delahunty have agreed to a modified version of the court's case management schedule. Satfinance has declined to participate in the exercise.

Accordingly, the parties expect to address the following issues at the conference:

- 1) Whether this action in the SDNY should be held in abeyance pending the outcome of the appeal from the dismissal of the claims against Athena in England.
- 2) Whether a formal motion must be filed in order to obtain such relief.
- 3) Whether the dates set forth in the proposed Rule 26 schedule are acceptable to the Court.

We attach a Rule 26 schedule proposed by Athena. However, Satfinance and Delahunty's counsel advise that they cannot voluntarily consent to the schedule, as opposed to being ordered to comply, because they believe consenting to the Rule 26 schedule will be used against them in England to support Athena's argument that this matter should be litigated in New York.

It is expected that the following attorneys will attend the conference on October 15th.

For Athena:	Wendy J. Lindstrom (lead counsel) and Richard E. Lerner, of Mazzola Lindstrom LLP
For Satfinance:	Judd B. Grossman (lead counsel), of Grossman LLP
For Delahunty:	Greg Clarick (lead counsel) and Emily Weissler, of Clarick Gueron Reisbaum LLP

Counsel for Delahunty has requested that the Court consider holding the conference on October 15th electronically, rather than in person, due to the continuing health risks presented by COVID-19. Athena and Satfinance are both amenable to Delahunty's request.

Counsel for Satfinance declined to agree to this two-page letter, because it wished to instead offer argument and move the Court for a stay, by letter submission. Athena would not agree to this, as it is outside the scope of the Court's October 6, 2020 docketed order. Since Athena appreciates that this conference is an Initial Conference and not oral argument on a motion that is not before the Court, Athena renews its request that all motions – including any motion for a stay – be fully briefed pursuant to the Federal Rules of Civil Procedure, the local rules of the Southern District of New York and Your Honor's Individual Rules.

Respectfully submitted,

MAZZOLA LINDSTROM, LLP

/s/ Wendy J. Lindstrom

Wendy J. Lindstrom

cc: Via ECF

Attached: Proposed Rule 26 Schedule